

OVERSIGHT BOARD
SUCCESSOR AGENCY
TO THE WEST HOLLYWOOD
COMMUNITY DEVELOPMENT COMMISSION

SEPTEMBER 18, 2013

SUBJECT: RESOLUTION OF THE OVERSIGHT BOARD TO THE WEST HOLLYWOOD COMMUNITY DEVELOPMENT COMMISSION APPROVING A LONG-RANGE PROPERTY MANAGEMENT PLAN FOR THE PROPERTY OF THE FORMER WEST HOLLYWOOD COMMUNITY DEVELOPMENT COMMISSION AND DIRECTING STAFF TO SUBMIT THE DOCUMENT TO THE STATE DEPARTMENT OF FINANCE

INITIATED BY: SUCCESSOR AGENCY

(David A. Wilson, Director of Finance & Technology Services) *DAW*
(John Leonard, Senior Management Analyst) *JRL*

STATEMENT ON THE SUBJECT:

The Oversight Board will consider the approval of a Long-Range Property Management Plan for the property of the former West Hollywood Community Development Commission ("CDC"). The LRPMP requests that the only property of the former CDC, the Spaulding Public Parking Lot, be transferred to the City of West Hollywood, to be retained for governmental use, pursuant to Health and Safety Code Section 34181(a).

RECOMMENDATION:

Approve Resolution No. 13-_____ "RESOLUTION OF THE OVERSIGHT BOARD TO THE WEST HOLLYWOOD COMMUNITY DEVELOPMENT COMMISSION APPROVING A LONG-RANGE PROPERTY MANAGEMENT PLAN FOR THE PROPERTY OF THE FORMER WEST HOLLYWOOD COMMUNITY DEVELOPMENT COMMISSION AND DIRECTING STAFF TO SUBMIT THE DOCUMENT TO THE STATE DEPARTMENT OF FINANCE".

BACKGROUND ANALYSIS:

On February 1, 2012, pursuant to Assembly Bill x1 26 ("AB x1 26") all redevelopment agencies across the State were dissolved and successor agencies were established to wind-down the redevelopment agencies' operations and obligations. AB x1 26 required successor agencies, and their oversight boards, to dispose of former redevelopment agency properties as quickly as possible.

On June 27, 2012, a clean-up bill to AB x1 26 was enacted by the State Legislature ("AB 1484"). AB 1484 created several new deadlines and procedures which must be followed by successor agencies. One of these new

procedures is the requirement that successor agencies prepare and submit a Long-Range Property Management Plan ("LRPMP") for approval to their Oversight Board and the State Department of Finance ("DOF"). The LRPMP must address the disposition and use of the real property of the former redevelopment agency.

The LRPMP process was created in recognition that the rushed disposition of properties could be detrimental to communities and not result in the highest financial returns for taxing entities. Pursuant to Health and Safety Code ("H&SC") Section 34191.5, successor agencies must submit a LRPMP to their Oversight Board and DOF, for approval, within six months of receiving a Finding of Completion from DOF. The Successor Agency to the West Hollywood Community Development Commission ("Successor Agency") received its Finding of Completion on April 26, 2013, as a result of remitting all unencumbered former CDC cash to the County for distribution to taxing entities. The Successor Agency's Oversight Board-approved LRPMP must be submitted to DOF for approval no later than October 26, 2013.

Long Range Property Management Plan Requirements

As detailed in the dissolution legislation, the LRPMP shall do all of the following:

1. Include an inventory of all of the former redevelopment agency's real property. The inventory shall consist of all of the following information for each property:
 - The date of acquisition of the property and the value of the property at that time, as well as an estimate of the current value of the property.
 - The purpose for which the property was acquired.
 - Parcel data, including address, lot size, and current zoning in the former agency redevelopment plan or specific, community, or general plan.
 - An estimate of the current value of the parcel including, if available, any appraisal information.
 - An estimate of any lease, rental, or other revenues generated by the property, and a description of the contractual requirements for the disposition of those funds.
 - The history of environmental contamination, including designation as a brownfield site, any related environmental studies, and history of any remediation efforts.
 - A description of the property's potential for transit-oriented development and the advancement of the planning objectives of the successor agency.
 - A brief history of previous development proposals and activity, including the rental or lease of the property.

2. Address the use or disposition of all of the former redevelopment agency's properties. Permissible uses include:

- 1) the retention of the property for governmental use pursuant to subdivision (a) of Section 34181,
- 2) the retention of the property for future development,
- 3) the sale of the property, or
- 4) the use of the property to fulfill an enforceable obligation.

The LRPMP must separately identify and list properties dedicated to governmental use purposes and properties retained for purposes of fulfilling an enforceable obligation.

At the July 11, 2013, Oversight Board Meeting, Successor Agency staff presented an update on the LRPMP process. As part of the update, staff indicated that the City of West Hollywood was interested in purchasing the Spaulding Lot from the Successor Agency. At the Oversight Board meeting, there was discussion regarding the definition of "governmental use", specifically, whether or not parking lots were included. Staff reported that DOF had previously denied requests by other successor agencies to include parking lots as a governmental use, however, staff agreed to research the matter.

After the July 11 meeting, the City's Legal Counsel researched the item, and concluded that while parking lots are not mentioned as a "governmental use" in the legislation, the list of uses was not meant to be exhaustive. Based on their research and analysis the City's Legal Counsel believes there are significant arguments as to why the Spaulding Lot can be considered a "governmental use" property. For these reasons, which are detailed further in the LRPMP and this staff report, the Successor Agency is recommending that the Spaulding Lot be transferred to the City as a governmental use property.

Property of the Former West Hollywood CDC

At the time of dissolution, the former West Hollywood CDC had one real property asset. Information regarding that property is listed below:

Real Property of the Former West Hollywood CDC	
Address:	7718 Santa Monica Blvd
Parcel Number:	5530-016-900
Size:	10,000 Sq. Ft.
Zoning:	CC1 – Commercial, Community 1
Current Use:	City Operated Public Parking Lot (28-spaces)
Purchase Date:	March 17, 2003
Purchase Price:	\$1,300,000
Current Appraised Value:	\$2,465,000

As shown in the preceding table, the only property owned by the former West Hollywood CDC, at the time of dissolution, was a 28-space public parking lot located on the southeast corner of Spaulding Avenue and Santa Monica Boulevard in the former East Side Redevelopment Project Area, known as the "Spaulding Lot." The property was originally purchased by the West Hollywood CDC in 2003 to be used as a public parking lot, and has been operated as one ever since then. The property is the only City or CDC owned public parking lot on the eastside of the City. The lot is used as both a self-service public parking lot, as well as a valet parking lot in the evening.

At the time the Spaulding Lot was purchased, state law required the City's Planning Commission to determine whether the property would conform to the City's General Plan. The City's Planning Commission determined that because the General Plan identified "overflow commercial parking in residential areas, with accompanying noise and traffic, as a significant land use and urban design issue for the City," the purchase of the lot was consistent with the General Plan (Dec. 5, 2002 Planning Commission Staff Report).

Indeed, the City's current General Plan states that a mere 5% of land in the City is dedicated to parking and vacant land, and identifies a lack of parking in the City as one of the community's greatest concerns (General Plan, 2035, pp. 3-4, 6-1). The General Plan also identifies parking as "crucial to residential quality of life and commercial vitality in the City," and parking as a "coveted resource" in the City (*Id.*, pp. 6-5, 6-19). For these reasons, the City has identified public parking as a "public benefit" that must be encouraged in new development (*Id.*, Land Use Policy 2.9).

The City receives two types of revenue from the Spaulding Lot: 1) Parking revenue – generated from self-service patrons and valet rental fees; and 2) Billboard revenue – lease revenue generated from a billboard located on the property. The parking revenue is used to offset the costs of maintaining the lot. The billboard revenue is deposited into the City's Parking Improvement Fund, which is used for parking capital improvements throughout the City. Thus, the billboard revenue also advances General Plan purposes by reducing secondary impacts of overflow commercial parking in residential neighborhoods, such as a noise and traffic intrusion (City Council Reso No. 04-3088).

Health and Safety Code Section 34191.5 states that one of the permissible uses of former redevelopment agency property includes the retention of the property for governmental use pursuant to subdivision (a) of Section 34181. Health and Safety Code Section 34181(a) states that a Successor Agency must:

"Dispose of all assets and properties of the former redevelopment agency; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, police and fire stations, libraries,

and local agency administrative buildings, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such an asset.” (emphasis added)

The Spaulding Lot was purchased in 2003 to serve as a governmental use. Since it was purchased, the property has continually been used for a governmental purpose, serving as a public parking lot, with all excess revenue deposited into the City’s Parking Improvement Fund to fund other governmental parking improvements. Section 34181 does not specifically list public parking lots as one of the examples of a governmental use; however, the list of assets was expressly not intended to be exhaustive, because the list is preceded by the words “such as.” Additionally, Section 34181 does not define “governmental purpose” and instead only provides examples of what a governmental use could be. Some of the examples in Section 34181 are property types which are directly used by governmental entities, such as police and fire stations, local agency administrative buildings, and school buildings. However, other examples which are provided included governmentally owned and operated properties that benefit the general public, such as parks and libraries.

The Successor Agency staff and legal counsel believe that the Spaulding Lot qualifies as a governmental use property because it has been owned and operated as a public parking lot for the last ten years, providing a significant public benefit to the general public and adjacent businesses, similar to a park or library. In other situations, California courts have stated that “governmental purpose” is synonymous with “public purpose” (see, e.g., *Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757, 776 (“The rational basis test asks whether the classification is rationally related to a legitimate governmental purpose. Put another way, the classification must bear some fair relationship to a legitimate public purpose.”)). Because the Spaulding Lot has clearly been used for public purposes for the past 10 years, the lot may be transferred to the City under Section 34181.

Additionally, the current billboard improvements provide additional public benefits, because the revenue from the lease agreement is deposited into the City’s Parking Improvement Fund and is used to maintain and enhance public parking facilities throughout the City. The billboard was only allowed to be constructed because the property was publicly owned and considered a public asset. A zoning waiver was granted that allowed the billboard to be constructed because it constituted a public benefit, since the billboard lease revenues are used to off-set the cost of maintaining a public parking lot and making improvements to public parking facilities in the City.

The LRPMP will be considered for approval by the Governing Board of the Successor Agency (the City Council) on September 16, 2013. If approved by the Oversight Board and DOF, the Successor Agency would complete the transfer of the Spaulding Lot to the City as a governmental use, and the property will continue to be operated as a public parking lot.

FISCAL IMPACT:

None

ATTACHMENTS:

- 1) Resolution
- 2) Long-Range Property Management Plan
- 3) Allan Kotin Memorandum Regarding Appraisal